

# Morgan Lewis

**Tamar Finn**

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**REDACTED - FOR PUBLIC INSPECTION**

June 14, 2019

**VIA ECFS**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, S.W.  
Washington, DC 20554

**Re: CG Docket No. 13-24 - In the Matter of the Misuse of Internet Protocol (IP)  
Captioned Telephone Service; CG Docket No. 03-123 - Telecommunications  
Relay Services and Speech-to-Speech Services for Individuals with Hearing and  
Speech Disabilities**

Dear Ms. Dortch:

On behalf of ClearCaptions, LLC enclosed for filing is the redacted version of the Notice of Ex Parte Communication for filing in the above referenced proceedings. The version of the filing has been marked "REDACTED – FOR PUBLIC INSPECTION", in accordance with the Protective Orders issued in the proceedings.

Any questions relating to this submission should be directed to the undersigned.

Respectfully Submitted,

*/s/ Tamar E. Finn*

Tamar Finn

*Counsel for ClearCaptions, LLC*

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June 14, 2019

**Via ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Room TW-A325  
Washington, DC 20554

**Re: NOTICE OF EX PARTE COMMUNICATION  
CG Docket No. 13-24 - In the Matter of the Misuse of Internet Protocol (IP)  
Captioned Telephone Service; CG Docket No. 03-123 - Telecommunications  
Relay Services and Speech-to-Speech Services for Individuals with Hearing  
and Speech Disabilities**

Dear Ms. Dortch:

ClearCaptions, LLC ("ClearCaptions" or the "Company"), through its undersigned counsel, files this Notice of *Ex Parte* meetings. On June 12, 2019, Robert Rae, President and CEO, Michael Strecker, Vice President of Regulatory and Strategic Policy and the undersigned met with Diane Burstein, Deputy Bureau Chief of the Consumer and Governmental Affairs Bureau ("Bureau"); Eliot Greenwald, Deputy Chief of Disabilities Rights Division ("DRO"); Michael Scott, DRO Attorney; Robert Aldrich, Legal Advisor to the Bureau Chief; David Schmidt, TRS Fund Program Administrator, Office of Managing Director; and Susan Lee and Virginia Metallo of the Office of Economics and Analytics and Doug Graber, DRO Intern.

**IP CTS Rates**

ClearCaptions urged the Commission to adopt its proposed four-tier model for the IP CTS rate structure.<sup>1</sup> ClearCaptions explained that it needs rate certainty for the next five years to

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<sup>1</sup> See Initial Comments of ClearCaptions, LLC, CG Docket Nos. 13-24 and 03-123, at 11-23 (filed Sept. 17, 2018); Reply Comments of ClearCaptions, LLC, CG Docket Nos. 13-24 and 03-123, at 5-6

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attract new capital investment necessary to continue improving its IP CTS service offerings. ClearCaptions' service offerings make communications services accessible to hard-of-hearing consumers that need IP CTS to live independently and remain connected to family, friends, and the businesses that serve America's aging population. The discussions were consistent with the attached handout provided to the meeting participants.

ClearCaptions looks forward to working with the Commission on a long-term rate solution for IP CTS and stands ready to continue those productive discussions.

**Automatic Speech Recognition**

ClearCaptions also discussed the ASR platform it is testing on its new mobile IP CTS application.

**TRS Numbering Database**

ClearCaptions explained its interpretation of Commission rules and orders that IP CTS providers are not required to register IP CTS telephone numbers in the TRS Numbering Directory.

Rule 64.613(a)(1) requires that the "TRS Numbering Directory shall contain records mapping the geographically appropriate NANP telephone number of each Registered internet-based TRS User." In 2008, the FCC defined a "Registered internet-based TRS User" as "an individual who has registered with a VRS or IP Relay provider as described in Section 64.611."<sup>2</sup> The FCC noted that IP CTS "raises distinct technical and regulatory issues in the context of numbering" and sought comment on "whether we should extend the numbering system adopted in this Order to IP CTS," how IP CTS calls are routed and how such routing differs from VRS and IP Relay services.<sup>3</sup> The FCC also asked whether "the unique characteristics of IP CTS make it difficult or infeasible to map a NANP number to an IP address."<sup>4</sup>

However, when the FCC adopted rules in its February 2019 Order requiring registration of IP CTS users in the User Registration Database ("URD"), it amended the definition of Registered internet-based TRS User to be "an individual who has registered with a VRS, IP Relay, or IP CTS provider as described in Section 64.611." It seems clear from the text of the Order that the Commission intended to include IP CTS consumers in the TRS-URD, but did not intend to require

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(filed Oct. 16, 2018); *see also* ClearCaptions, LLC Ex Parte, CG Docket Nos. 13-24 and 03-123, Exhibit 1 at slides 8-9 (filed Nov. 7, 2018).

<sup>2</sup> *In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities and E911 Requirements for IP-Enabled Service Providers*, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591, 11610-11612, ¶ 116 ("First Internet-Based TRS Order").

<sup>3</sup> *First Internet-Based TRS Order*, 23 FCC Rcd at 11631-32, ¶ 116.

<sup>4</sup> *Id.* at 11632.

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IP CTS providers to register numbers in the TRS Numbering Database. For example, the FCC declined to apply the per-call validation requirement in Section 64.615(a) to IP CTS because there is no dial-around calling in IP CTS, IP CTS providers usually do not assign telephone numbers to users, and IP CTS providers often do not control the connection of calls.<sup>5</sup> As a result, the FCC found that there is less need for the IP CTS provider to query a central database to validate an IP CTS call and found that requiring IP CTS providers to query the Database for each call could pose practical difficulties for IP CTS. Therefore, IP CTS providers are not required to send a specific call validation query to the Database or the TRS Numbering Directory at the beginning of each call pursuant to Section 64.615(a).<sup>6</sup>

Because the IP CTS providers need not query the TRS Numbering Directory before each call, notwithstanding the fact that Rule 64.613(a)(1) requires that the “TRS Numbering Directory shall contain records mapping the geographically appropriate NANP telephone number of each Registered Internet-based TRS User”, ClearCaptions does not think the Commission intended that the TRS Numbering Directory include IP CTS users’ NANP numbers. ClearCaptions explained that because the TRS Numbering Directory is only mentioned 3 times in the IP CTS Order, and the Commission recognized it is not appropriate for IP CTS providers to query the TRS Numbering Database, it appears that the Commission did not intend to expand Rule 64.613(a)(1) to include registration of IP CTS consumers in the TRS Numbering Database.

Please contact the undersigned if you have any questions.

Respectfully submitted,

*/s/ Tamar Finn*

Tamar E. Finn

*Counsel to ClearCaptions, LLC*

*Enclosure*

cc: Diane Burstein  
Robert Aldrich  
Eliot Greenwald  
Michael Scott

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<sup>5</sup> *In the Matter of Misuse of Internet Protocol (IP) Captioned Telephone Service, Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities*, Report and Order, Further Notice of Proposed Rulemaking, and Order, FCC 19-11, ¶ 30 (2019).

<sup>6</sup> *Id.* ¶ 31.

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David Schmidt  
Virginia Metallo  
Susan Lee

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# Cost Trends and Tiers

June 12/13, 2019



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# Market Share Trends

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- ClearCaptions continues \*\*\*BEGIN HIGHLY CONFIDENTIAL\*\*\*  
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- The largest provider continues to drive \*\*\*BEGIN HIGHLY CONFIDENTIAL  
\*\*\*END HIGHLY CONFIDENTIAL\*\*\*

# Proving the Cost Curve & The 4 Tier Model

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- In Mid 2017, ClearCaptions presented to the Commission a projected cost curve that a stand-alone IP CTS provider should realize as they gained scale. We created this cost curve using our experience and similar cost analysis of other industry players at different points in their growth
- YoY ClearCaptions continues to track very close to this curve, supporting our projected cost curve and the tiered model
- The green line represents the realized rate of our tiered model at an 8% to 12% profit margin



# ClearCaptions vs. the Industry

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- Industry W. Average costs have been relatively flat since 2016
- While \*\*\*BEGIN HIGHLY CONFIDENTIAL\*\*\*  
\*\*\*END HIGHLY CONFIDENTIAL\*\*\* other providers appear to be projecting cost increases
- A long-term rate model is necessary in order to stabilize the Fund and provide predictability

# Tiered Rate Proposal

- In order to solve the economical challenges associated with having **\*\*\*BEGIN HIGHLY CONFIDENTIAL\*\*\*** **\*\*\*END HIGHLY CONFIDENTIAL\*\*\***, ClearCaptions presented a 4 tier model that would:

- Ensure competition exists within the market
- Doesn't over compensate the largest provider
- Doesn't force providers, operating efficiently within their scale structure, to leave the market

- The following represents this 4 tier model:

4 Tier Model					
	Minute Threshold			Tier Min value	Proposed Rate
Tier 1	-	to	3,500,000	3,500,000	1.9467
Tier 2	3,500,000	to	7,000,000	3,500,000	1.4289
Tier 3	7,000,000	to	10,000,000	3,000,000	1.2475
Max Tier	10,000,000	>			1.0403